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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,242	12/01/2000	Christopher Cosgrove Creagan	13451	2514

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KIMBERLY-CLARK WORLDWIDE, INC.  
401 NORTH LAKE STREET  
NEENAH, WI 54956

EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 12/31/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/728,242

Applicant(s)

CREAGAN ET AL.

Examiner

C. Lynne Anderson

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3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 15.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 14 October 2003 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 7-10, 12, 14, and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ahr et al. (H1298).

With respect to claims 1, 2, 9, 16, 17, and 19, Ahr discloses an expandable absorbent material, consisting essentially of superabsorbent and thermoplastic fibers, as described in column 2, lines 29-32. The superabsorbent is present in an amount from 5% to 95%, as disclosed in column 2, lines 29-30. The thermoplastic fibers are present in an amount from 5% to 95%, as disclosed in column 2, lines 31-32. The thermoplastic fibers are fused, as disclosed in column 2, lines 38-39, such that the fibers will be mechanically crimped. The thermoplastic fibers are joined together by

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fusing, and are therefore conjugate fibers. The absorbent material has a density of between 0.08 g/cc and 0.25 g/cc, as disclosed in column 3, lines 38-40. The absorbent material is fully capable of functioning as a surge material or retention material.

With respect to claims 4, 18, and 20, the thermoplastic fibers are comprised of polyolefin, as disclosed in column 2, line 52.

With respect to claims 7 and 8, the absorbent material further comprises a binder, as disclosed in column 3, lines 3-4. The binder is a liquid, as disclosed in column 3, lines 6-7.

With respect to claim 10, the superabsorbent, as described in column 3, lines 1-7, has an electret charge.

With respect to claims 12 and 14, the absorbent material is incorporated into a personal care product. The personal care product is a feminine hygiene product, as disclosed in column 4, line 66 to column 3, lines 41-42.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ahr et al. (H1298) in view of McDowall et al. (6,362,389).

Ahr discloses all aspects of the claimed invention with the exception of elastic fibers. McDowall discloses an absorbent material comprising superabsorbent and

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thermoplastic fibers for use in personal care products, as described in column 5, lines 44-52. The thermoplastic fibers are elastic, which provide the material with greater absorption and improved comfort to the wearer, as disclosed in column 2, lines 5-10. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the absorbent material of Ahr with elastic thermoplastic fibers, as taught by McDowall, to provide the material with greater absorption and improved comfort to the wearer.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahr et al. (H1298) in view of Mukaida et al. (5,672,419).

Ahr discloses all aspects of the claimed invention with the exception of fibers having a side by side configuration. Mukaida discloses thermoplastic fibers comprising a polyolefin and poly (vinyl alcohol) in a side by side configuration, as described in column 5, lines 23-35. These thermoplastic fibers provide improved shape retaining properties, as disclosed in column 5, lines 41-43. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the absorbent material of Ahr with the thermoplastic fibers of Mukaida, in order to provide improved shape retaining properties.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ahr et al. (H1298).

Ahr discloses all aspects of the claimed invention but remains silent as to the expandability of the absorbent material. Ahr discloses superabsorbent material that is well-known in the art to swell upon contact with liquid, but remains silent as to the extent

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of the swelling. It would have been obvious to one of ordinary skill in the art at the time of invention to have the material of Ahr expandable by at least 50%, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahr et al. (H1298) in view of Jackson et al. (5,350,370).

Ahr discloses all aspects of the claimed invention but remains silent as to absorbent articles other than feminine hygiene products. Jackson discloses diapers, adult incontinence products, and feminine hygiene products to be art-recognized equivalent structures, as described in column 1, lines 15-17. It would therefore have been obvious to one of ordinary skill in the art at the time of invention to substitute diapers and adult incontinence products for the personal care product disclosed by Ahr.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 5,128,193; 5,856,410; 6,534,572; and 6,586,653 pertain to absorbent materials consisting of superabsorbent and thermoplastic fibers.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
cla

  
**GLENN K. DAWSON**  
**PRIMARY EXAMINER**